

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

Karen White,

Plaintiff,

V.

BMW of North America, LLC,

Defendant.

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Civil Action No. 3:12-cv-00115-REP

DEFENDANT'S OBJECTIONS TO PLAINTIFF'S RULE 26(a)(3) DESIGNATION OF EXHIBITS

COMES NOW the Defendant, by counsel, and hereby objects to the following exhibits proffered by the Plaintiff:

1. Defendant objects to Plaintiff's designation in Exhibits 4, 5, 6, 7, 9, 11, 13, 15, 17, 20, 22, 24, 26, 28, 30, 32 and 34 to the extent that the designation identifies the document as "BMW's repair orders." While Defendant has no objection to the documents themselves, the designation is improper inasmuch as the documents clearly on their faces indicate that they are documents of Casey Auto Group and/or Casey BMW. Otherwise Defendant does not object to the foregoing exhibits.

2. Defendant objects to Plaintiff's designation in Exhibits 8, 10, 12, 14, 16, 18, 19, 21, 23, 25, 27, 29, 31, 33, 35, 36, 37, 38, 39 and 40 to the extent that the designation identifies the document as "Plaintiff's documents." While Defendant has no objection to the documents themselves, the designation is improper inasmuch as the documents clearly on their faces

indicate that they are documents of Casey Auto Group and/or Casey BMW. Otherwise, Defendant does not object to the foregoing exhibits.

Exhibit No.	Document Description	Objections
3	List of repairs	Defendant objects to this exhibit inasmuch as the document is unidentified and, therefore, is inadmissible because it is hearsay. It appears to be a summary of repairs prepared by an unidentified writer. All of the repairs are recited in detail in the actual repair orders. The summary is irrelevant.
42	Photos of gas station pumps	Defendant objects to the relevance of this exhibit. Plaintiff has not identified the photographer and the place of the photographs. The exhibit is irrelevant.
45	Expert witness report of Randy S. Baker, Sr.	If the expert is permitted to testify, his findings and opinions will be admitted as the Court deems appropriate. He may need to refer to his report to refresh his recollection, but the admission of the report itself into evidence is objected to. If the expert does not testify, the report should be excluded from evidence as hearsay.
46	Rebuttal expert witness report of Randy S. Baker, Sr.	If the expert is permitted to testify, his findings and opinions will be admitted as the Court deems appropriate. He may need to refer to his report to refresh his recollection, but the admission of the report itself into evidence is objected to. If the expert does not testify, the report should be excluded from evidence as hearsay.
47	Plaintiff's Amended Complaint.	Defendant objects to this exhibit. This is a pleading and the Plaintiff will have the opportunity to testify as to the allegations stated therein. The document itself should not be admitted into evidence for relevance reasons.

Exhibit No.	Document Description	Objections
48	Defendant's Answer to Amended Complaint.	Defendant objects to this exhibit. This is a pleading and the Plaintiff will have the opportunity to testify as to the allegations stated therein. The document itself should not be admitted into evidence for relevance reasons.
49	Defendant's Responses to Plaintiff's Interrogatories	Defendant's responses included objections which should be ruled on by the Court and not be offered into evidence inasmuch as they constitute legal positions and not evidence of facts.
50	Defendant's Responses to Plaintiff's Request for Production of Documents	Defendant's responses included objections which should be ruled on by the Court and not be offered into evidence inasmuch as they constitute legal positions and not evidence of facts.

Respectfully submitted,

Dated: September 12, 2012

/s/ Rachel Elsby
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Counsel for Defendant BMW of NA, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of September 2012, I electronically filed the foregoing DEFENDANT'S OBJECTIONS TO PLAINTIFF'S RULE 26(a)(3) DESIGNATION OF EXHIBITS with the Clerk of Court using the CM/ECF system which will send notification of such filing via Notification of Electronic Filing (NEF) to the following:

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